

INTERNAL REVENUE SERVICE

Number: **INFO 2002-0047**

Release Date: 6/28/2002

CC:PSI:1-GENIN-107368-02

UILC 1362.00-00

March 18, 2002

[REDACTED]:

We are responding to a letter that you submitted along with [REDACTED], [REDACTED], requesting relief in order to establish 2000, as the effective year for your S corporation election. The information submitted explains that Form 2553 was submitted past the original due date because the person responsible for filing the election had overlooked it. You are now seeking relief pursuant to Revenue Procedure 98-55.

Revenue Procedure 98-55 provides automatic late S corporation relief to taxpayers who meet certain eligibility and timing requirements. If you had requested relief under Rev. Proc. 98-55 before March 15, 2001, you would have received it. However, it appears that you are ineligible for automatic relief pursuant to this revenue procedure because your request for such relief was submitted past the cut-off date. You are also ineligible for automatic relief under Rev. Proc. 97-48 (the other "automatic" provision), because the Internal Revenue Service notified you about the lack of an election within six months of the date that you filed Form 1120S for the 2000 taxable period. Although we are unable to assist you with automatic relief, this letter provides information about rectifying your situation.

Announcement 97-4 (copy enclosed) provides guidance on seeking relief for late S corporation elections. Generally, to request relief for a late or invalid S corporation election you must request a private letter ruling from the National Office. The procedures for requesting a ruling are set out in Revenue Procedure 2002-1 (copy enclosed). In addition, Rev. Proc. 2002-1 requires taxpayers to submit a user fee along with their ruling request. The standard user fee for a private letter ruling is \$6,000. However, taxpayers with gross income of less than \$1 million on their tax return for the last 12-month taxable period qualify for a **reduced user fee** in the amount of \$500. If you qualify for this reduced fee you must include with your request a statement verifying your 2001 gross income. Please review Appendix B of Rev. Proc. 2002-1 for a sample format for requesting a private letter ruling.

If you decide to submit a formal request for a private letter ruling, please include the proper user fee, information that substantiates your intent to be an S corporation from the requested effective date, and refer your request to our office by adding the following to the address:

Attn: CC:PA:T
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Direct to: CC:PSI:1
Room 5002

Visit the specialized IRS website, www.irs.gov/smallbiz for information and links relating to small businesses. Additionally, you can order a single, free copy of the *Small Business Resource Guide CD-ROM*, by calling 1-800-829-3676. The CD-ROM provides critical tax information including forms, instructions, and publications, as well as valuable business information from a variety of government agencies, non-profit organizations, and educational institutions.

Please keep this letter with your tax records and feel free to provide a copy of it to your authorized representative. We hope that the above information proves helpful.

Sincerely yours,

/s/
DIANNA K. MIOSI
Chief, Branch 1
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures:
Announcement 97-4
Rev. Proc. 2002-1